

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Michael J. Hudson) Group Art Unit:
) Unknown
Appl. No. :	10/562,593)
)
Filed :	December 28, 2005)
)
For :	GRASS GROWING)
	SUPERSTRATE AND)
	METHOD OF USE)
)
Examiner :	Unknown)

**PETITION TO FILE DECLARATION ON BEHALF OF NONSIGNING INVENTOR WHO
REFUSES TO SIGN UNDER 37 CFR 1.47(a) & STATEMENT OF FACTS**

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

In response to the Notice to File Missing Requirements mailed April 5, 2006, Applicant hereby petitions under the provisions of 37 C.F.R. § 1.47(a), that the Commissioner grant the filing date and examine the above-identified patent application despite the fact that the inventor named in this application is unwilling to execute such an oath or declaration in accordance with 37 C.F.R. §1.63. In support for this petition, Applicant provides the following:

STATEMENT OF FACTS

Applicant submits herewith the following declaration, attachments and exhibits, in support of the conclusion that the nonsigning inventor's conduct constitutes a refusal to sign:

Appl. No. : **10/562,593**
Filed : **December 28, 2005**

**Declaration of Peter Chamberlayne Dummer in Support of Petition
To File Declaration On Behalf Of Nonsigning Inventor Who Refuses To
Sign Under 37 CFR 1.47(a);**

The Declaration of Peter Chamberlayne Dummer shows that the inventor was provided both the application and declaration for review. The declaration further shows that diligent efforts were made to obtain the nonsigning inventor's declaration. In particular, this Declaration demonstrates that Peter Dummer contacted Michael J. Hudson regarding the necessity for obtaining his signature on the inventor's declaration within the statutory period. Mr. Hudson failed to respond to this request. Furthermore, the Declaration demonstrates that Mr. Dummer contacted Mr. Hudson by phone in a further attempt to obtain his signature whereupon Mr. Hudson said he was unwilling to sign the declaration.

LAST KNOWN ADDRESS OF MICHAEL J. HUDSON

The last known address of Michael J. Hudson, the nonsigning inventor, is: P.O. Box 46, Edgecliff, New South Wales, 2027, Australia. Mr. Hudson is a citizen of Australia.

CONCLUSION

Based on the foregoing, it is submitted that the inventor had physically received both the application and declaration and that a diligent effort has been made to obtain Michael J. Hudson's signature on the Declaration of Inventorship within the statutory period but that Mr. Hudson is unwilling to sign the declaration. Mr. Hudson, the sole inventor of the subject matter of the above-referenced application, has repeatedly imposed delays in prosecution of these applications by failing to respond to requests from Peter Chamberlayne Dummer, representative of Stratum Green Pty Ltd., and asserting unavailability and unwillingness to sign the Declaration of Inventorship associated with respect to the application entitled: "GRASS GROWING SUPERSTRATE AND METHODS OF USE." These actions have occurred despite

Appl. No. : 10/562,593
Filed : December 28, 2005

having been advised of the dates for timely filing and the final extension deadlines associated with these applications.

Applicant respectfully requests that this petition be granted and that Applicant be allowed to file and prosecute the above-identified patent application without the signature of Michael Hudson. The fee set forth in 37 C.F.R. § 1.17(h) accompanies this petition. If there are any obstacles to a prompt approval of this petition, the Patent and Trademark Office is invited to call the undersigned attorney.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/3/06

By: _____

Michael H. Trenholm
Registration No. 37,743
Attorney of Record
Customer No. 20,995
(951) 781-9231

3083139:lw
110306

Australia
Patents Act 1990

IN THE MATTER OF US Patent
Application 10/562, 593

— AND —

IN THE MATTER OF Michael Hudson

STATUTORY DECLARATION

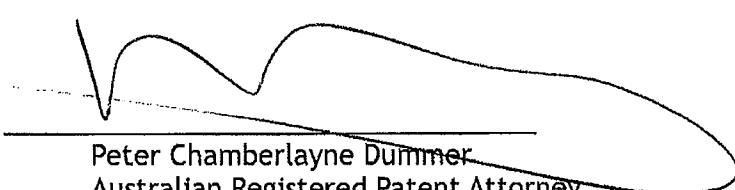
I, Peter Chamberlayne Dummer, Australian Registered Patent Attorney of Suite 904, 37 Bligh Street, Sydney, NSW, 2000, do solemnly and sincerely declare as follows:

1. I am principal of Wallington-Dummer (my firm) which firm has carriage of US Patent Application 10/562, 593 on behalf of our client Stratum Green Pty Ltd, an Australian Company.
2. Now shown to me and marked exhibit PCD-1 is a copy of my diary note dated 8 May 2006 wherein I rang Michael Hudson and he advised me he had the forms and that he was going to obtain advice before considering whether to sign them or not.
3. Now shown to me and marked exhibit PCD-2 is a copy of my firm's annotated letter of 29 May 2006 to Michael Hudson (on instruction from our client Stratum Green Pty Ltd) wherein we confirmed that on instruction from our client we had forwarded the declaration form (complete with US Application attached) for the above referenced US Patent Application directly to Mr Hudson. It appeared that we had sent the forms to PO Box 4 instead of PO Box 46 so Mr Hudson had not received them.
4. Now shown to me in marked exhibit PCD-3 is a copy of an email telephone message together with my annotated diary note of 20 June 2006 to the effect that I rang Mr Hudson on or about 20 June 2006 and he said he was aware we had sent documents but he had not received them and asking us to send them again, which my firm did.
5. Now shown to me in marked exhibit PCD-4 is a copy of our reminder letter of 23 June 2006 sent to Mr Hudson.
6. Now shown to me in marked exhibit PCD-5 is a copy of our further reminder letter of 28 July 2006 sent directly to Mr Hudson.
7. As of the date of this Declaration Mr Hudson has not returned the forms and I believe, despite repeated requests, he is refusing to execute them.

8. I say that on the information available to me I believe that Stratum Green Pty Ltd is entitled under Australian law to the subject matter of US application 10/562,593 and has an ownership interest in it and therefore should be able to pursue the application in USA. I say further that in my view following direct interaction with Michael Hudson during drafting of the patent specification that he is at least an inventor of the subject matter described in that patent application.
9. I say further that despite repeated requests by my firm and more specifically by myself directed to Michael Hudson asking him to execute the supporting declaration and US assignment for this US application he has refused to do so up to the date of this Declaration.

AND I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in statutory declarations conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at Suite 904, 37 Bligh Street, Sydney, 2000 NSW, on 3 Nov, 2006
2006


Peter Chamberlayne Dummer
Australian Registered Patent Attorney

Before me: J M Dummer J.P.
Joanne Maria Dummer, J.P.
Justice of the Peace Registration No. 160532

PROCED

File 042035

(15)

8/5/12

122
hrs

File no.

Make Hds on way:-

- ① He by the form.
- ② So he will get advice on the form before he will consider signing.
- ③ I explain Dec will have a time limit on it - if not in ultimately will case us off to offer.

He will get back to me after taking advice.

U

WALLINGTON-DUMMER
PATENT & TRADE MARK ATTORNEYS

SUITE 904, LEVEL 9
37 BLIGH STREET
SYDNEY NSW 2000

MAIL TO:
GPO BOX 3888
SYDNEY NSW 2001
AUSTRALIA

TELEPHONE: +61-2-9221-1040
FACSIMILE: +61-2-9221-1605
www.wallington-dummer.com
mail@wallington-dummer.com

29 May, 2006

PCD2

Michael James Hudson
PO Box 4
Edgecliff NSW 2027
AUSTRALIA

WALLINGTON-DUMMER
PATENT & TRADE MARK ATTORNEYS

06 JUN 2006

RECEIVED

Dear Michael

Re: US Complete Standard Patent Application No. 10/562,593
In the name of: Stratum Green Pty Ltd
Entitled: Grass Growing Superstrate and Methods of Use
Our Ref. 042035

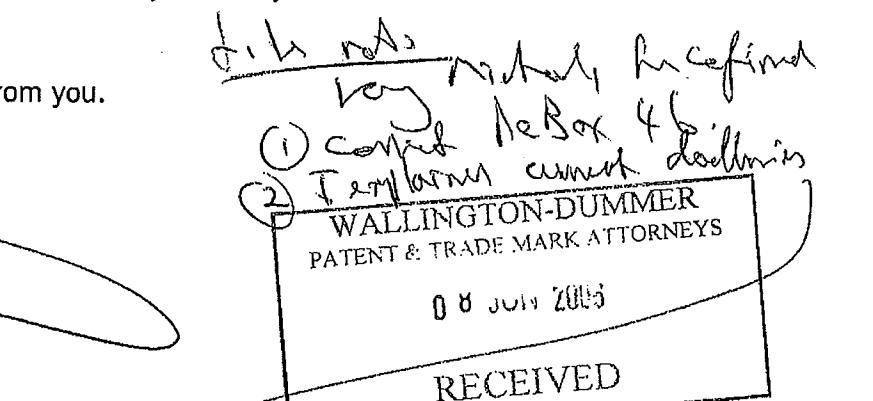
We refer to our letter of 4 May 2006 in relation to the outstanding forms for USA and also to our telephone discussions Dummer/Hudson on 8 May 2006 and would be grateful if you could please return the executed forms at your earliest convenience. We have a current deadline of 5 June 2006 in which to lodge the executed Declaration form with the US Patent Office. We do have a few months extension available until 5 November 2006 in which to lodge the form. If the executed Declaration form is not lodged by that deadline the US Application will lapse. This deadline does not apply to the Assignment form.

Accordingly, we would be grateful for your early return of at least the Declaration form.

We look forward to hearing from you.

Regards
WALLINGTON-DUMMER

Peter C. Dummer



RECEIVED

*5 June extended to 5 Nov 2006.
and that it is due now.
(3) He indicated he is awaiting a response
from Stratum before he will sign*

Principal:
Peter C. Dummer BE (UNSW) FIPTA

Patent Attorney:
John van Leeuwen B Surv MSc Soc
MIP

Patent Attorney:
Lance Roman-Miller BSc LLB PhD
MIP

PCD3

Peter Dummer

From: Anshu Jayaweera
To: Peter Dummer
Cc:
Subject: Mike Hudson
Attachments:

Sent: Tue 20/06/2006 12:52 PM

Hi Peter.

Apparently you called Mike Hudson so confirm his postal address as you wanted to send some documents to him? Supposedly he has not received any such documents...he wanted to advise you of this because usually you're quite religious about sending such documents through so obviously something has gone wrong along the way!! His number is: 0437 483 766 (He has a feeling the docs had something to do with his US patent?)

many thanks

ref 6/6/06

PC Box 46

Regards
 Anshu Jayaweera

Wallington-Dummer
 Patent and Trade Mark Attorneys

Suite 904, 37 Bligh Street Sydney | T +61 2 9221 1040 | F +61 2 9221 1605 | ajayaweera@wallington-dummer.com

web address: www.wallington-dummer.com

(a) he didn't get his mail stuff (b) PTO has nothing

I send I would just open even if it looked like we send to the wrong address

last time

WALLINGTON-DUMMER
PATENT & TRADE MARK ATTORNEYS

SUITE 904, LEVEL 9
37 BLIGH STREET
SYDNEY NSW 2000

23 June
~~29 May, 2006~~

MAIL TO:
GPO BOX 3888
SYDNEY NSW 2001
AUSTRALIA

TELEPHONE: +61-2-9221-1040
FACSIMILE: +61-2-9221-1605
www.wallington-dummer.com
mail@wallington-dummer.com

Michael James Hudson
PO Box 46
Edgecliff NSW 2027
AUSTRALIA

PC D 4

COPY

REMINDER

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WALLINGTON-DUMMER

Peter C. Dummer



WALLINGTON-DUMMER
PATENT & TRADE MARK ATTORNEYS

SUITE 904, LEVEL 9
37 BLIGH STREET
SYDNEY NSW 2000

28 July
23 June
29 May, 2006

MAIL TO:
GPO BOX 3888
SYDNEY NSW 2001
AUSTRALIA

TELEPHONE: +61-2-9221-1040
FACSIMILE: +61-2-9221-1605
www.wallington-dummer.com
mail@wallington-dummer.com

Michael James Hudson
PO Box 46
Edgecliff NSW 2027
AUSTRALIA

COPY
CD 5

COPY

REMINDER

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Regards

WALLINGTON-DUMMER

Peter C. Dummer



Principal:

C. Dummer BE (UNSW) FIPTA

Patent Attorney:

John van Leeuwen B Surv MSc Soc

Patent Attorney:

Lance Roman-Miller BSc LLB PhD